

UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

ECHOSTAR SATELLITE LLC, a Colorado corporation; ECHOSTAR TECHNOLOGIES CORPORATION, a Texas corporation, and NAGRASTAR LLC, a Colorado corporation,

Plaintiffs,

v.

FINISAR CORPORATION, a Delaware corporation,

Defendant.

Case No. 06-0425-JJF

CONTAINS CONFIDENTIAL INFORMATION

DECLARATION OF KERRY P. L. MILLER

KERRY P. L. MILLER, acknowledging that this declaration is made under penalty of perjury, states upon personal knowledge, information and belief that the following facts are true and correct.

1. I am a member of the bars of the State of Massachusetts and the State of New York.
2. On March 24, 2005, I and another member of EchoStar's in-house legal department met with Dion M. Bregman and Michael J. Lyons, two attorneys from the law firm of Morgan, Lewis & Bockius LLP, who represented Finisar Corporation ("Finisar"), to discuss Finisar's accusations that EchoStar was infringing claims of United States Patent No. 5,404,505. I served at the time as EchoStar's Vice President of Intellectual Property, Associate General Counsel.

3. At the March 24, 2005, meeting, Messrs. Bregman and Lyons asserted that Finisar knew that EchoStar was infringing the '505 patent and argued that EchoStar should accept the licensing terms that Finisar would present to EchoStar.

4. After the March 24, 2005, meeting, I received a letter from Gary Williams, also an attorney from Morgan, Lewis & Bockius LLP, proposing a meeting between business representatives of EchoStar and Finisar. I declined Mr. Williams' offer, indicating that any offer Finisar wished to make could be made to me.

5. I next received a letter from an in-house attorney with Finisar that proposed that EchoStar license the '505 patent at a **REDACTED** royalty rate. This proposal did not provide a basis from which EchoStar and Finisar could negotiate a license to the '505 patent that would be acceptable to EchoStar and I never responded to the letter.

DATED: November 6, 2006



Kerry P. L. Miller

CERTIFICATE OF SERVICE

I, Josy W. Ingersoll, Esquire, hereby certify that on November 7, 2006, I caused to be electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading to the following counsel of record:

Arthur G. Connolly, III , Esquire
Connolly, Bove, Lodge & Hutz LLP
The Nemours Building
1007 North Orange Street
Wilmington, DE 19801

I further certify that on November 7, 2006, I caused a copy of the foregoing document to be served by hand delivery on the above-listed counsel of record and on the following non-registered participants in the manner indicated:

BY E-MAIL

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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I, Josy W. Ingersoll, Esquire, hereby certify that on November 13, 2006, I caused to be electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading to the following counsel of record:

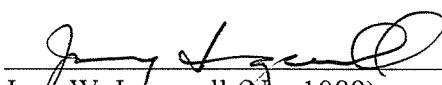
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